

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

DIANA KING,

Plaintiff,

vs.

WAL-MART STORES, INC.,

Defendant.

Case No. 13-cv-1150-DRH-DGW

MEMORANDUM AND ORDER

HERNDON, Chief Judge:

Pending before the Court is defendant Wal-Mart Stores, Inc.'s motion to dismiss Count II of plaintiff's complaint (Doc. 9). Plaintiff Diana King's response to defendant's motion was due on or before December 16, 2013. Plaintiff failed to respond. The Court hereby deems plaintiff's failure to respond to defendant's motion as an admission of its merits. SDIL-LR 7.1(c), 7.1(g). Accordingly, defendant's motion to dismiss Count II of plaintiff's complaint is **GRANTED** (Doc. 9). Plaintiff's Count II is dismissed without prejudice.

IT IS SO ORDERED.

Signed this 23rd day of December, 2013.

Digitally signed by
David R. Herndon
Date: 2013.12.23
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**Chief Judge
United States District Court**